STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: U S WEST COMMUNICATIONS, INC., AND QWEST INC.	DOCKET NO. SPU-99-27

ORDER ESTABLISHING COMMENT DEADLINE, REVISING PROCEDURAL SCHEDULE, AND REQUIRING INFORMATION

(Issued February 4, 2000)

On September 20, 1999, Qwest Communications Corp., LCI International Telecom Corp., USLD Communications Inc., and Phoenix Network Inc. (collectively "Qwest"), and U S WEST, Inc., filed with the Utilities Board (Board) a "Joint Application" for an order approving the proposed merger of Qwest Inc. and U S WEST, Inc. (collectively, the "Applicants"), pursuant to Iowa Code §§ 476.76 and 476.77 (1999). The filing has been identified as Docket No. SPU-99-27.

Pursuant to order, hearing in this matter was scheduled to commence on February 2, 2000, for cross-examination of the prefiled direct testimony of all parties. However, on January 28, 2000, the Applicants and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a proposed settlement agreement and a joint motion for approval of the agreement. The proposed settlement was intended to resolve all issues between the Applicants and Consumer Advocate. The other parties to this docket, AT&T Communications of the Midwest, Inc. (AT&T), McLeodUSA Telecommunications Services, Inc. (McLeod), and the U S

West retiree associations, were not parties to the proposed settlement and continued to urge the Board to disapprove the proposed merger as being inconsistent with ratepayer interests and the public interest (unless the Applicants make certain commitments intended to alleviate the alleged public interest concerns).

The Board's rules include a procedure for review of contested settlements, with a settlement conference and opportunity for written comments and a hearing. 199 IAC 7.2(11). However, the schedule envisioned in the rule is inconsistent with the statutory time frame applicable to Board proceedings pursuant to Iowa Code § 476.77. If the Board applies the rule schedule to this contested settlement, the hearing on the settlement cannot be held before the statutory decision deadline in this docket (March 17, 2000). Accordingly, the Board will waive the provisions of 199 IAC 7.2(11) and establish a review procedure in keeping with the available time.

In light of the short time available, the Board will not automatically require that the parties convene a settlement conference. However, if the non-signing parties believe that a settlement conference may be useful, they may schedule one for a date prior to February 9, 2000, to be held in Des Moines, Iowa. All parties will be required to participate in that conference.

The non-signing parties will be given 12 days from the date the proposed settlement was filed to file their comments contesting all or part of the settlement. That means comments are due on or before February 9, 2000. Any such comments shall be served on all parties on the date they are filed, by facsimile transfer or by electronic mail, as the parties may agree.

A hearing for review and consideration of the proposed settlement has been scheduled for February 14, 2000, beginning at 8:30 a.m. At that time, the Board will receive live testimony in support of and in reply to the settlement agreement and the comments filed on February 9, 2000.

The original briefing schedule required initial briefs on February 11, 2000. No purpose would be served by filing initial briefs prior to the hearing on February 14, so the Board will revise the briefing schedule as follows: Initial briefs will be due on or before Monday, February 21, 2000, and reply briefs will be due on or before Friday, February 25, 2000. Again, all briefs shall be served on all parties on the date they are filed, by facsimile transfer or by electronic mail, as the parties may agree.

Finally, the Board has a number of questions concerning the proposed settlement, listed on Attachment C to this order. The Joint Applicants and Consumer Advocate are directed to file the information requested in Attachment C on or before February 9, 2000, in the form of prepared direct testimony to be adopted by a witness at the hearing.

IT IS THEREFORE ORDERED:

1. On its own motion, the Board hereby waives the provisions of 199 IAC 7.2(11) and substitutes the following procedure for its consideration of the partial settlement agreement filed in this docket on January 28, 2000:

a. If the parties to this proceeding that have not signed the settlement agreement believe a settlement conference will be useful, they may schedule a settlement conference in Des Moines, Iowa, for a date prior to February 9, 2000. All parties are required to attend the conference.

b. Any party that has not expressly joined in the settlement agreement may, on or before February 9, 2000, file comments contesting all or part of the proposed settlement. Any such comments shall be served on all other parties on the date they are filed with the Board, by facsimile transmission or by electronic mail, as the parties may agree.

c. Applicants are directed to answer the questions set forth in the attached document, identified as Attachment A, on or before February 9, 2000. Answers should be submitted in the form of sworn testimony and exhibits.

d. A hearing is scheduled to commence at 8:30 a.m. on February 14, 2000, for the purpose of receiving testimony and exhibits in support of or contesting all or part of the proposed settlement.

e. Initial briefs addressing the proposed settlement and all remaining issues in this case may be filed on or before February 21, 2000. Any and all such briefs shall be served on all other parties on the date they are filed with the Board, by facsimile transmission or by electronic mail, as the parties may agree.

f. Reply briefs may be filed on or before February 25, 2000. Any and all such briefs shall be served on all other parties on the date they are filed with the Board, by facsimile transmission or by electronic mail, as the parties may agree.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 4th day of February, 2000.

ATTACHMENT C
TO
"ORDER ESTABLISHING COMMENT DEADLINE, REVISING PROCEDURAL SCHEDULE, AND REQUIRING INFORMATION"
DOCKET NO. SPU-99-27

The following questions are to be answered by the Applicants. Other parties are invited to provide their own answers to the questions as a part of their comments on the proposed settlement. The questions are organized by reference to the settlement agreement. Omission of any particular rule or statutory requirement should not be interpreted as any indication that the proposed settlement is sufficient or deficient with respect to that particular provision.

<u>Article VII</u>

<u>Paragraph 2</u>

1. What will be the source of the access line count?
2. Will the access line count include both wholesale and retail use?
3. Will the access line count include all lines regardless of usage?
4. Provide an example of a calculation for payment using 1999 figures, assuming the provision had been in effect in that year. If year end 1999 records are not complete, provide the information for the year of 1998 (or the most recent available calendar year). Provide references for all calculations and copies of all supporting information used in the calculations.
5. Please explain what is meant by the term "other events".
6. If the Agreement is accepted, what would be the timing on reporting payment information to the Board and how would affected customers be informed?
7. What information will the Applicants provide to the Board as part of the reporting process?
8. Does this provision need to be included in the tariff?
9. What would the impact be if this provision were extended to wholesale customers? Provide calculations showing the payments that would have been made to wholesale customers, using the same year as was used in the calculations responding to Question 4, above.

<u>Paragraph 3</u>

1. Define a "primary line" for business customers? Does this provision mean that a 20-line business would be compensated only for one line if all 20 are out? What about businesses with multiple locations, but a single billing address?
2. What would be the impact if this provision were extended to wholesale customers?
3. Are these remedies in addition to any other remedies the Board may order (or propose in informal complaint proceedings)?

4. Who makes the determination that the Company's performance is excused by events beyond its reasonable control? Will the Applicants agree to insert the words "as determined by the Board" after "beyond the reasonable control of the Company?"
5. If this provision had been in effect in 1999, how many customers would have received credits based upon the Company's failure to meet the specified standard? How much would those credits have totaled?

Paragraph 4

1. This provision assumes the existing customer options for held order situations are in the record. Please provide this information for the record in this docket or indicate where in the record the information can be found.
2. Where would customers have to go to pick up the "handset"? Could it be delivered, by overnight service, to customers more than x miles from the nearest Company office?
3. The phrase "unlimited local calls" may be unclear to customers as it applies to cellular telephones. Can it be clarified by reference to the existing U S West local calling area for the affected customer?
4. Will the credit and remote call forwarding for the affected customer be automatic, or must the customer somehow request these items?
5. How and when will the Applicants make these arrangement known to their customers?

Paragraph 5

1. Based upon the records in Board complaint dockets, it appears U S West often does not know that it cannot meet a scheduled connection date until a day or two before the scheduled date. Explain why written notice will be adequate or helpful to the consumers in such situations.
2. Has U S West ever used "customer not educated" or similar phrases with respect to Iowa customers and their service orders?
3. Has U S West ever had a policy, applicable to Iowa customers, of giving customers a scheduled connection date even when U S West's systems indicated U S West would not be able to meet that commitment?
4. If the answer to either or both of Question Nos. 2 or 3, above, is in the affirmative, explain whether this provision is intended to prevent that situation from recurring.
5. If the answer to both Question Nos. 2 and 3 is in the negative, please explain the purpose of this provision.

Paragraph 6

1. Define what is meant by service orders and the types of service that utilize the service order process.
2. What types of service orders will be included in the count to determine target levels?
3. Provide a count, by month, for the last two years on the total number of service orders processed.
4. For each month of the last two years, provide a count on the number of service orders incorporated in the methodology for the determination of a target level.
5. What, if any, are the consequences for failing to meet the target set in this paragraph?

Paragraph 9

1. Define and explain what types of access lines are included in the count.
2. Does the count include lines that are being utilized to provide both wholesale and retail services?
3. What will be the basis or source of the access line count used to determine minimum investment levels?
4. Provide a count of access lines for the last three years incorporating the same methodology as proposed in this section.
5. Provide a total year-end count of access lines for the last three years.
6. Provide historical amounts for the last three years on the basis of Total, Central office and outside plant.
7. Define "infrastructure modernization and maintenance." Specify and describe each known or identified project, including the budget, that is intended to be included in this commitment.
8. How much, on a per access line (as of year end) basis, did U S West spend on "infrastructure modernization and maintenance" in Iowa in 1998 and 1999? Identify and describe the largest 20 such projects in each year.
9. How much, stated on a per access line basis, did U S West plan or intend to spend on "infrastructure modernization and maintenance" in Iowa in 2000 and 2001 prior to entering into this settlement?

Paragraph 10

1. The Settlement Agreement, Article VII, Paragraph 10 contains a number of provisions to prevent Applicants and its affiliates from obtaining credit that would permit a creditor to have recourse to the regulated assets of U S West Communications.

    a) However, Item "j" of that paragraph requires that these provisions of Paragraph 10 expire "no later than December 31, 2001."

        i) Why is it important that these Paragraph 10 conditions be lifted by that date?

   ii) Why is it important that Applicants be allowed to obtain credit that would permit a creditor, upon default, to have recourse to U S West Communications, Inc. regulated assets?

b) Item "i" of Paragraph 10 exempts all subsidiaries owned by U S West Communications from the conditions under Paragraph 10.

   i) Why is this an important exemption for Applicants?

   ii) Why is it important that U S West Communications, Inc., be allowed to pledge its assets for the borrowings of its own subsidiaries?

   iii) What prevents Applicants from creating or shifting risky enterprises under U S West Communications, Inc., to take advantage of its good credit standing?

   iv) Are Applicants' needs met if current financial relationships of U S West Communications' currently owned subsidiaries are "grandfathered in"—that is, excused from complying with Paragraph 10 although future financial relationships might be required to comply with Paragraph 10 provisions?

c) Item "g" of Paragraph 10, Article VII, which expires December 31, 2001, states that regulated rates are not to be increased "by reason of the effects of credit rating declines or other adverse consequences directly caused by the merger." Paragraph 12, which does not expire, states that the cost of capital as reflected in regulated rates shall not be adversely affected by the result of the merger. Does Paragraph 12, which does not expire, also provide for the protection embodied in Paragraph 10-g? If not, please explain the differences.

2. Applicants' Witness Cummings in his prefiled rebuttal, page 8, lines 28-30, states that "the Board need not be concerned about the creation of obligations with recourse against the assets of USWC because of the structure and covenants of USWC's existing financing."

   a) Does this mean that there is no way under current structure and covenants that U S West Communications, Inc., could be made responsible for its affiliates' or parent's debt or other obligations? Explain.

   b) Do Applicants retain the ability to adopt different "structures and covenants" over time that might make possible the creation of obligations with recourse against the assets of U S West Communications, Inc.? Explain.

   c) If the structure and covenants of USWC's existing financing make the "creation of obligations with recourse against the assets of U S West Communications" of no concern, why do Applicants want to limit the provisions under Paragraph 10 of Article VII to just the rest of this and next year?

3. Item 10 of Article VII limits financial arrangements between U S West Communications, Inc., and its affiliates? Itemize and briefly explain all types of financial arrangements that are still allowed between the utilities and their affiliates under the settlement.

4. Paragraph 10 appears to discuss limitations on [illegible] relationships between U S West Communications, Inc., and its affiliates. Are there any current financial relationships or investments that U S West Communications, Inc., has with any of its affiliates that would be inconsistent with this paragraph? If yes, what are they?

<u>Paragraph 11</u>

1. Please explain what measures can be used to monitor any potential adverse impacts and what authority and procedures are available to the Board to enforce this paragraph.

<u>Paragraph 12</u>

1. Item 12 of Article VII states that "any declines in U S West Communications, Inc., credit ratings caused by the merger shall be quantified by applicants in any future earnings analysis, or rate base/rate of return rate case and adjusted as if such declines did not occur." Is it correct to assume exogenous events under price caps, rate unbundling cases, and single-issue concerns would be covered by this commitment?

2. A witness in this docket prefiled testimony advocating that 40 percent would be an appropriate minimum common equity ratio level for U S West Communications, Inc., as one commitment intended to preserve the utility’s continuing ability to attract capital on reasonable terms.

    a) The settlement does not provide for a minimum equity ratio level. Why not?

    b) If a minimum common equity ratio of 40 percent were agreed to by Applicants,

        i) Should that minimum equity ratio level be applicable for every end-of-month figure, or should that level apply just to the 13-month average of month-ending balances for each given year and why?

        ii) Looking at Cummings’ Ex. PCC-5, should the SEC Financial Reporting be used in meeting (or exceeding) that 40 percent equity ratio target, or should Applicants’ MR Regulatory Reporting be used, and why?

        iii) What specific limitations on the upstream dividend payouts should be applicable if U S West Communications fails to maintain its equity ratio level at 40 percent or above?

3. Regarding Witness Cummings' Ex. PCC-5, which shows U S West Communications' capital structure:

    a) Explain the conceptual differences between MR regulatory reporting and SEC financial reporting.

    b) Using December 1998 as an example, the total debt for the SEC Reporting Basis of $5,943 appears to be comprised of $789 short-term debt and $5,154 long-term debt as found in the 1998 Form 10-K.

        i) Is this correct?

        ii) If yes, should the short-term debt be included in total capitalization for use in figuring the target equity ratio?

    c) Explain the basis and source of the $5,414 given for the December 1998 total debt using the MR Regulatory Reporting and why and how it varies from the $5,943 shown for the SEC Reporting basis.

    d) Also explain the basis and source of the $7,642 given for the December 1998 total equity using the MR Regulatory Reporting and why and how it varies from the $4,463 filed with the SEC.

4. Applicants' Witness Cummings' Exhibit PCC-2 contains copies of reports as of November 19, 1999, of rating agencies and their ratings for U S West and for Qwest.

    a) Have the rating agencies changed their ratings on the U S West family or for Qwest since that material was filed? If so, provide the latest ratings.

<u>Paragraph 17</u>

1. For accounting purposes, should Applicants be proscribed from charging the cost of securing regulatory approval of this merger transaction to U S West Communications, Inc.? Explain.

Paragraph 18

1. Is this paragraph intended to create an enforceable commitment on behalf of the Applicants? If so, are there any consequences for failure to fulfill the commitment?
2. How will service be improved for the referenced access lines?

Paragraph 19

1. Is this intended to be an enforceable commitment? If so, are there any consequences for failure to fulfill the commitment?
2. How will service be improved for the reference9 improvement?
3. When will these improvements be completed?

Paragraph 20

1. How many network employees are the Applicants in the process of adding to the Iowa workforce?
2. When will all of those new employees be hired?

Paragraph 21

1. How is this commitment to be monitored and enforced?
2. Please provide benchmark information, i.e., how many Iowa employees are currently "directly involved in the provisioning and maintenance of service"?
3. What workforce level is "required to provide good service quality to customers?"

Paragraph 22

1. Provide U S West's charitable contributions in Iowa for 1998 and 1999.
2. Describe U S West's community activities and civic support efforts in Iowa for 1998 and 1999.